

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT DUESLER,

No. C 09-4219 SBA (PR)

Petitioner,

**ORDER DIRECTING PETITIONER TO
SHOW CONTINUED INTENT TO
PROSECUTE THIS ACTION**

v.

BEN CURRY, et al.,

Respondents.

Petitioner, a state prisoner, filed this pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On August 20, 2010, Petitioner filed an in forma pauperis application. He requested that a copy of the first page of the application be sent back to him in a self-addressed stamped envelope that he provided to the Court. On August 27, 2010, the copy was returned to the Court with a notation: "Return to Sender -- Inmate Refused."

Pursuant to Federal Rule of Civil Procedure 41(b), a district court may sua sponte dismiss an action for failure to prosecute or to comply with a court order. See Link v. Wabash R.R., 370 U.S. 626, 633 (1962); McKeever v. Block, 932 F.2d 795, 797 (9th Cir. 1991). But such a dismissal should only be ordered when the failure to comply is unreasonable. See id. A district court should afford the litigant prior notice of its intention to dismiss. See Malone v. United States Postal Serv., 833 F.2d 128, 133 (9th Cir. 1987). Accordingly, it is in the interests of justice and judicial efficiency for the Court to establish whether Petitioner intends to continue to prosecute this action. Petitioner shall file a notice of his continued intent to prosecute no later than **thirty (30) days** of the date of this Order. Failure to do so will result in the dismissal of this action without prejudice for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure. See Malone, 833 F.2d at 133 (the district court should afford the litigant prior notice before dismissing for failure to prosecute).

IT IS SO ORDERED.

DATED: 9/9/10


SAUNDRA BROWN ARMSTRONG

United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ROBERT LAINGEN DUESLER II,
Plaintiff,

Case Number: CV09-04219 SBA

CERTIFICATE OF SERVICE

v.

BEN CURRY et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 9, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Robert Laingen Duesler D-43799
P.O. Box 8101
A-1208
San Luis Obispo, CA 93409-8101

Dated: September 9, 2010

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk